

REMARKS

As a preliminary matter, Applicant once again notes that the Examiner neglected to initial one of the references listed on the Information Disclosure Citation (Form PTO-1449) filed with the April 6, 2007 Information Disclosure Statement (IDS). Since this appears to be an inadvertent error, Applicant respectfully requests that the Examiner initial the box next to the “Introduction to Algorithms” publication listed in the “Other Documents” section of the form. If there was another reason for not initialing the box, Applicant respectfully requests an explanation in the next communication from the Examiner.

Claims 1-8 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

First, with regard to Claims 5-8, the preambles of these claims were amended in Amendment B to recite that these claims are directed to “A computer readable medium storing a program for . . .”. Applicant respectfully submits that the § 101 rejection should be withdrawn because these claims include functional descriptive material (i.e., a computer program which imparts functionality when employed as a computer component) recorded on a computer readable medium. *See* MPEP §2106.01 (“When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since the use of technology permits the function of the descriptive material to be realized.”); MPEP § 2106.01(I) (“a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which

permit the computer program's functionality to be realized, and is thus statutory.''). Thus, the §101 rejection of Claims 5-8 should be withdrawn for at least this reason.

Second, Applicant respectfully submits that the §101 rejection of Claims 1-8 should be withdrawn because, contrary to the Examiner's assertions in the Advisory Action, the claims are tied to specific machines and recite practical applications.

In the Advisory Action, the Examiner referred to the recent Federal Circuit case of *In re Cominskey*, 84 USPQ2d 1670 (Fed. Cir. 2007). Applicant has reviewed *In re Cominskey*, and Applicant respectfully submits that it supports our position that the current claims are statutory under 35 U.S.C. §101 because independent Claims 1 and 5 are tied to a specific machine ("a shared memory type scalar parallel computer"). *See In re Cominskey*, 84 USPQ2d 1670, 1678 (Fed. Cir. 2007) ("For example, we have found processes involving mathematical algorithms used in computer technology patentable because they claimed practical applications and were tied to specific machines" (emphasis added)); *Id.* at 1680 ("When an unpatentable mental process is combined with a machine, the combination may produce patentable subject matter.'). Additionally, Applicant's "shared memory type scalar parallel computer" is even more specific than the general purpose computer determined to be sufficient to render some of the claims in the case of *In re Cominskey* as patentable subject matter under §101. *See id.* at 1680. Further, dependent Claim 2 even recites additional physical details of the claimed computer, further strengthening Applicant's argument with regard to Claim 2. Accordingly, Applicant respectfully submits that the "specific machine" requirement is clearly met by Claims 1-8.

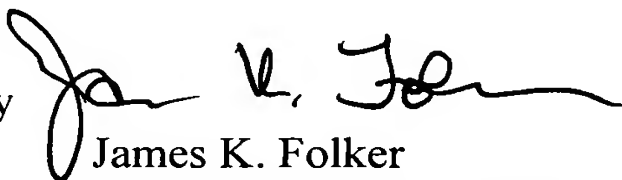
With regard to the "practical application" requirement, Applicant respectfully believes that Amendment B (pages 7-10) sufficiently demonstrates that the claims define a practical application. Accordingly, Applicant respectfully requests that the Examiner reconsider the arguments of Amendment B (pages 7-10). Thus, for the reasons set forth in Amendment B, Applicant respectfully submits that the "practical application" requirement has been met.

For at least the reasons stated above, Applicant asserts that the claims are directed to statutory subject matter, and request withdrawal of the § 101 rejection of Claims 1-8.

For all of the foregoing reasons, Applicant requests reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned attorney.

Respectfully submitted,

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